

## **CHAPTER 43-32 PSYCHOLOGISTS**

### **43-32-01. Definitions.**

1. "Board" means the North Dakota state board of psychologist examiners.
2. "Industrial-organizational psychologist" means an individual who is licensed under this chapter to engage in the practice of industrial-organizational psychology.
3. "Industrial-organizational psychology" means the provision of psychological research services or consultation services to a group or an organization. The term does not include the delivery or supervision of services to individuals who are themselves, rather than the group or organization, the intended beneficiaries of the services, regardless of the source or extent of payment for services rendered.
4. "Licensee" means an industrial-organizational psychologist or a psychologist.
5. "Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The term includes psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychotherapy, and other therapeutic techniques based on psychological principles; diagnosis and treatment of mental and emotional disorder or disability, compulsive disorders, disorders of habit or conduct as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. The term includes providing psychological services to individuals, families, groups, and the public regardless of whether payment is received for services rendered.
6. "Psychologist" means an individual who is licensed under this chapter in the practice of psychology.
7. "Psychology resident" means an individual who has received from a school or college a doctorate degree in a program of study substantially psychological in nature, and who is involved in supervised psychological employment.
8. "School or college" means any university or other institution of higher learning which is accredited by a regional accrediting association, offering a full-time graduate course of study in industrial-organizational psychology or psychology.

### **43-32-02. State board of psychologist examiners - How appointed - Qualifications.**

The governor shall appoint a state board of psychologist examiners consisting of five members. At least one member must be engaged primarily in providing service in psychology, and at least one member must be engaged primarily in teaching, training, or research in psychology. Each member must:

1. Be a resident of this state.
2. Be a psychologist licensed under this chapter.
3. Have received a doctorate degree in psychology from a school or college at least five years before appointment.

4. Have actively engaged in the practice of teaching or research of psychology for at least five years.

**43-32-03. Tenure of members - Vacancies and oath of office.** The term of office of each member of the board is three years and until a successor is appointed and qualified. The governor shall fill all vacancies by appointment. In case of a vacancy before the expiration of a term, the appointment must be for the remainder of the term only. An individual appointed to the board qualifies by taking the oath required of civil officers.

**43-32-04. Removal of members.** The governor may remove any member of the board for unprofessional conduct, incompetency, or neglect of duty after giving such member a written statement of the reasons for removal and after such member has had an opportunity to be heard thereon.

**43-32-05. Compensation of members - Expenses of board and members.** Each member of the board serves without compensation, but is entitled to receive mileage and travel expenses while engaged in the performance of board duties as provided in section 54-06-09. The secretary of the board is entitled to receive salary or other compensation and allowance for clerical and other expenses of the board, as the board determines.

**43-32-06. Officers of the board.** The board shall elect annually a president and vice president from its own number and a secretary who need not be a member of the board.

**43-32-06.1. Authority to appoint or employ.** The board may appoint or employ persons to assist the board in carrying out its duties under this chapter.

**43-32-07. Meetings of board - Seal of board.** The board shall hold at least one regular meeting each year. Additional meetings may be held upon call of the president or at the written request of the governor or of any two members of the board. The meetings must be held at such places as the board may designate. The board must have a seal.

**43-32-08. Rules.** The board may adopt rules as necessary to enable the board to carry into effect the provisions of this chapter. The rules may include a code of ethics for licensees. The board shall adopt rules defining what programs of study are substantially psychological in nature; what educational programs are acceptable for the licensing of psychologists; and what educational programs are acceptable for the licensing of industrial-organizational psychologists. The educational program rules for industrial-organizational psychologists must take into account the availability of professionally accredited programs in the field of industrial-organizational psychology.

**43-32-08.1. Continuing education requirements.** The board shall adopt rules establishing requirements for the continuing education of licensees. The board may refuse to renew, suspend, revoke, or place on probationary status any license issued under this chapter if the licensee fails to meet applicable continuing education requirements. Applicants for accreditation of continuing education courses, classes, or activities may be charged a reasonable fee determined by the board.

**43-32-08.2. Continuing education requirements - Renewal.** Absent a showing of good cause, the board may not renew a license issued under this chapter without proof the continuing education requirements under section 43-32-08.1 have been met. An individual whose license is not renewed because of failure to meet the continuing education requirements must be reinstated and the license renewed if, within one year from the date of nonrenewal, the individual demonstrates to the secretary of the board the continuing education requirements have been satisfied, pays the renewal fee, and pays a late fee to be determined by rule of the board.

**43-32-09. Examination of qualifications of applicants.** The board shall examine for, deny, approve, revoke, suspend, and renew the licensing of applicants as provided under this chapter.

**43-32-10. Power of board to administer oaths - Conduct hearings - Summon witnesses - Take testimony.** The members of the board and the secretary may administer oaths. The board may summon witnesses as provided in chapter 28-32 and take testimony in all matters relating to its duties, including the enforcement of the provisions and purposes of this chapter and the rules adopted by the board.

**43-32-11. Annual reports.** Each year, the board may transmit to the governor, with a copy thereof to the secretary of state and to the North Dakota psychological association, a full report of all activities under this chapter, together with a report of all receipts and disbursements.

**43-32-12. Application and license fee.** The board shall adopt rules establishing the amount of the application fee for licensure by written and oral examination and by reciprocity. A fee is not refundable, in whole or in part, except for failure of the board to hold examinations at the time originally announced, in which event the entire fee must be refunded upon demand by the applicant.

**43-32-13. Annual license and fee.** Before January first of each year, every licensee shall pay to the secretary of the board an annual license fee determined by the board not to exceed one hundred dollars. The secretary of the board, upon receipt of payment of the annual license fee, shall issue the licensee a certificate of annual license. An individual may not hold out as an industrial-organizational psychologist or a psychologist until the annual license fee is paid. The board may deny renewal of the license of an individual who violates this section. Annually, the board shall mail a renewal notice to each licensee at the address on file with the board.

**43-32-14. Payment of delinquent license fees - Reinstatement.** An individual whose license issued under this chapter was revoked for failure to pay the annual license fee must be reinstated and the license renewed if, within one year from the date of revocation, the individual pays to the secretary of the board the amount of the annual license fees in default and a late fee in the amount of twenty dollars.

**43-32-15. Deposit and disbursement of fees.** Repealed by S.L. 1971, ch. 510, § 15.

**43-32-16. Board to keep records.**

1. The board shall keep a record of its proceedings and a register of all applicants for licensing which must show:
  - a. The name, age, and residence of each applicant.
  - b. The date of each applicant's application.
  - c. The place of business of each applicant.
  - d. A summary of the educational and other qualifications of each applicant.
  - e. Whether an examination was required of an applicant.
  - f. Whether a license was granted to an applicant.
  - g. The date of the action of the board.
  - h. Any information the board determines necessary or advisable in aid of the requirements of this subsection.
2. Except as otherwise provided by law, the records of the board are public records and evidence of the proceedings of the board, and a transcript of board proceedings, duly certified by the secretary of the board, bearing the seal of the board, is admissible in evidence with the same effect as if the original were produced.

#### **43-32-17. License required for practice - Titles.**

1. Except as otherwise provided under this chapter, a person may not engage in the practice of psychology or represent that person to be a psychologist in this state unless that person is an individual who is licensed as a psychologist under this chapter. Except as otherwise provided by this chapter, a person may not engage in the practice of industrial-organizational psychology or represent that person to be an industrial-organizational psychologist in this state unless that person is an individual who is licensed as a psychologist or an industrial-organizational psychologist under this chapter.
2. A psychologist may use the title "psychologist" or similar title in conjunction with the practice of psychology. An industrial-organizational psychologist may use the title "industrial psychologist", "organizational psychologist", or "industrial-organizational psychologist" in conjunction with the practice of industrial-organizational psychology. An industrial-organizational psychologist may not use the title "psychologist" or similar title representing that the individual is licensed as a psychologist.

#### **43-32-18. Licensing of psychologists without examination - Qualifications of applicants.** Repealed by S.L. 1997, ch. 378, § 20.

**43-32-19. Licensing applicants from other states.** Upon receipt of an application accompanied by the required fee, the board may issue a license to any individual who at the time of application furnishes evidence satisfactory to the board that the applicant is licensed or certified as a psychologist or industrial-organizational psychologist by a similar board of another state the standards of which the board determines are not lower than those required under this chapter.

**43-32-20. Licensing - Written and oral examination - Qualifications of applicants.** The board shall issue a license to each applicant who files an application upon a form and in a manner the board prescribes, submits the required fee, and demonstrates to the board that the applicant meets the requirements of subsection 1 or 2.

1. An applicant for licensure as a psychologist shall demonstrate the applicant:
  - a. Will adhere to the American psychological association ethical principles of psychologists and code of conduct, 1992, or revised editions if adopted by the board by rule.
  - b. Has received from an accredited school or college as defined by this chapter a doctorate degree in a program of studies substantially psychological in nature.
  - c. Has passed the examinations, written, oral, or both, as the board determines necessary.
  - d. Has completed at least two full years of supervised professional experience, one year of which must be an internship program, and one year of which must be postdoctoral. Both years of experience must comply with the board's rules.
2. An applicant for licensure as an industrial-organizational psychologist shall demonstrate the applicant:
  - a. Will adhere to the American psychological association ethical principles of psychologists and code of conduct, 1992, or revised editions if adopted by the board by rule.
  - b. Has received from a school or college a doctorate degree in a program of studies substantially psychological in nature.

- c. Has passed the examinations, written, oral, or both, as the board determines necessary.
- d. Has completed the professional experience requirements established by the board. The requirements may not exceed the professional experience requirements for psychologists. If the professional experience requirements include a supervised experience requirement:
  - (1) The board must allow an applicant to submit to the board a personalized plan for supervised experience which may include distance-supervision by a qualified industrial-organizational psychologist.
  - (2) The board may adopt rules to establish who is qualified to perform supervision, supervision requirements, and reporting.

**43-32-20.1. Postdoctoral supervised psychological employment.** This section applies to postdoctoral supervised psychological employment. Supervision may only be performed by a psychologist with a competency in supervision in professional psychology in the area of practice being supervised.

Supervision of an applicant for psychologist licensure must include at least two hours of regularly scheduled direct supervision a week for full-time employment, one hour of which must be with the supervisor on a one-to-one basis. The remaining hour may be with other mental health professionals designated by the supervisor. The board may approve an exception to the weekly supervision requirement for a week during which the supervisor was ill or otherwise unable to provide supervision. The board may prorate the two hours per week of supervision for individuals preparing for licensure on a part-time basis.

The board may adopt rules regarding postdoctoral psychology supervision requirements and reporting.

**43-32-21. Consideration of application and notice to applicant.** Upon investigation of the application and other evidence submitted, the board, not less than thirty days before the examination, shall notify each applicant that the application and evidence submitted for licensing is satisfactory and accepted, or unsatisfactory and rejected. If rejected, the notice must state the reasons for rejection and explain the right to a hearing under chapter 28-32, if a hearing is requested within thirty days.

**43-32-22. Time and place of examination.** The time and place of examination must be designated by the board and notice thereof must be given to each applicant. Such examinations must be given annually and at such other times as in the opinion of the board the number of applicants warrants.

**43-32-23. Scope and grading of examination.** The board shall determine the subject and scope of specialized psychological areas and techniques for examination. Written examinations may be supplemented by oral examinations as the board may determine necessary. The board shall determine an acceptable level of performance for each examination and a majority decision of the board is required for the issuing of a license.

**43-32-24. Notice to applicant of examination results and right to reexamination.** The board shall state in writing its reason for refusal of a license to any applicant who has been so denied. An applicant who fails the examination may be reexamined at a subsequent examination upon again paying the required examination fee.

**43-32-25. Retention of examination records.** The board shall keep the written examination score report, an accurate recording of the questions and answers relating to the oral examinations, and the grade assigned to each answer thereof as a part of the board's records for at least two years following the date of the examination. In addition, the board shall keep a permanent record of all written examination score reports.

**43-32-26. Issuance and display of license.** The board is the sole agency empowered to examine competence in the practice of psychology. A license certificate issued by the board must show the full name of the licensee, have a serial number, be signed by the president of the board, and be attested by the secretary under the board's adopted seal. The license issued by the board under this chapter must be prominently displayed at the principal place of business at which the licensee practices.

**43-32-27. Denial - Revocation or suspension of license - Grounds.**

1. The board, after notice, hearing, and an affirmative vote of at least a majority of board members, may withhold, deny, revoke, or suspend any license issued or applied for under this chapter and may otherwise discipline a licensee or an applicant upon proof the applicant or licensee:
  - a. Has been convicted of an offense determined by the board to have a direct bearing upon an individual's ability to serve the public as a psychologist or industrial-organizational psychologist, or if the board finds, after the conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
  - b. Is using any narcotic or alcoholic beverage to an extent or in a manner dangerous to the applicant or licensee, any other person, or the public, or to an extent that the use impairs the applicant's or licensee's ability to perform the practice of psychology or industrial-organizational psychology with safety to the public.
  - c. Has impersonated another individual holding a psychology or industrial-organizational psychology license or allowed another person to use the licensee's license.
  - d. Has used fraud or deception in applying for a license or in taking an examination under this chapter.
  - e. Has allowed the licensee's name or license issued under this chapter to be used in connection with any person who performs psychological services outside of the area of that person's training, experience, or competence.
  - f. Is legally adjudicated insane or mentally incompetent. The record of the adjudication is conclusive evidence of that fact.
  - g. Has engaged in any form of unethical conduct as defined in ethical principles of psychologists and code of conduct as adopted and published by the American psychological association, 1992, or revised editions if adopted by the board by rule.
  - h. Has become grossly negligent in the practice of psychology or industrial-organizational psychology.
  - i. Has willfully or negligently violated this chapter.
  - j. Has engaged in an act in violation of rules adopted by the board.
2. An individual whose license has been revoked under this section may reapply for licensure after two years have elapsed from the date of revocation.

**43-32-27.1. Complaints - Investigations.**

1. A person aggrieved by the actions of a licensee may file a written complaint with the board citing the specific allegations of misconduct by the licensee. The board shall

notify the licensee of the complaint and request a written response from the licensee.

2. The board may investigate a complaint on the board's own motion, without requiring the identity of the complainant to be made a matter of public record, if the board concludes that good cause exists for preserving the confidentiality of the complainant.
3. A licensee who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation and providing copies of patient or client records if reasonably requested by the board and accompanied by the appropriate release.
4. In order to pursue an investigation, the board may subpoena and examine witnesses and records, including patient and client records, and may copy, photograph, or take samples of the records. The board may require the licensee to give statements under oath, to submit to a physical or psychological examination, or both, by a physician or other qualified evaluation professional selected by the board, if requiring an examination is in the best interest of the public. The patient and client records released to the board are not public records.
5. Unless a patient or client release is on file allowing the release of information at the public hearing, patient and client records acquired by the board in the board's investigation are confidential and closed to the public. All board meetings at which patient or client testimony or records are taken or reviewed are confidential and closed to the public. If patient or client testimony or records are not taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

**43-32-28. Notice - Hearing - Findings of fact and order.** Repealed by S.L. 1997, ch. 378, § 20.

**43-32-28.1. Hearing.** All hearings must be conducted pursuant to chapter 28-32. For purposes of a hearing, section 28-32-21 applies only to the licensee or applicant.

**43-32-29. Appeal from decision of board.** An appeal from the final decision of the board in any matter covered by this chapter may be taken to the Burleigh County district court or the aggrieved party's county of residence in accordance with chapter 28-32.

**43-32-30. Persons exempt from this chapter.** This chapter does not apply to:

1. Any individual in the employ of any federal, state, county, or municipal agency, or other political subdivision, or any nonprofit corporation or educational institution presently chartered by this state, insofar as the activities and services of the individual are a part of the duties of the person's office or position with such agency, nonprofit corporation, or institution. This exemption is not available or effective after July 1, 2001. However, the exemption period may be extended by the board in individual cases where hardship or other good cause is shown by the agency, nonprofit corporation, or institution covered, or where the individual affected has received from a school or college a master's degree in psychology and the individual's activities and services with such agency, nonprofit corporation, or institution are performed under the supervision of a psychologist. After reviewing the exemption under this subsection, the board and the department of human services shall review their definitions and rules for a master's degree in psychology as used in their own credential requirements.
2. A student or intern pursuing a course of study in psychology or industrial-organizational psychology at a school or college, if the activities and

services are a part of the individual's supervised course of study, provided the student or intern does not use the title "psychologist" or "industrial-organizational psychologist" and the student or intern status is clearly stated.

3. A nonresident licensed or certified in the state of the individual's residence who does not practice psychology or industrial-organizational psychology in this state for a period of more than thirty days in any calendar year.
4. A lecturer, from any school or college, who uses an academic or research title when lecturing to institutions or organizations. However, the lecturer may not engage in the practice of psychology or industrial-organizational psychology unless the lecturer is licensed under this chapter.
5. An individual employed by a public school if that individual's activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption applies only if the individual has received a master's degree in school psychology from an accredited graduate training program. Standards must be established by mutual consent of the board and the superintendent of public instruction.
6. A person certified, licensed, or registered in this state in another health care profession, the scope of practice of which is consistent with the accepted standards of that person's profession. A person claiming an exemption under this subsection may not represent to be rendering psychological services.
7. An applicant licensed to practice psychology or industrial-organizational psychology in another jurisdiction, pending disposition of the applicant's application in this state, if the applicant notifies the board on a form provided by the board of the applicant's intent to practice pending disposition of the application and the applicant adheres to the requirements of this chapter and the rules adopted by the board.
8. A person employed by an agency, a nonprofit corporation, or an institution if that person is currently exempt from licensure. A person exempt under this subsection continues to be exempt if the person continues employment in the same position with the agency, nonprofit corporation, or institution that applied for and received the exemption.
9. A psychology resident performing services supervised as provided under section 43-32-20.1.

**43-32-31. Violation - Penalty - Injunction.** Any person who violates any of the provisions of this chapter is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person.

**43-32-32. Drugs - Medicine.** This chapter may not be construed as permitting a licensee to administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.